

CHAPTER 8—CONSENSUS

PURPOSE

This chapter provides Aviation Rulemaking Advisory Committee (ARAC) participants with specific information on consensus and how participants apply the concept of consensus to ARAC meetings, including meetings associated with harmonization working groups.

DEFINITIONS RELATED TO CONSENSUS

Consensus—

- Is agreement by all parties that a specific course of action is acceptable.
- Requires debate and deliberation between divergent segments of the aviation industry, the flying public, and the Government.
- Does not mean that majority rules. Consensus can be unanimous or near unanimous.

Note: It is important to reach consensus in every phase of the ARAC process because introduction of disagreement in later phases is counterproductive to ARAC's objectives and extremely costly to the FAA rulemaking process.

There are different levels of consensus. The levels of consensus are—

- Full consensus,
- General consensus, and
- No consensus.

Full consensus means all members agree fully in context and principle and fully support the specific course of action.

General consensus means that, although there may be disagreement, the group has heard, recognized, acknowledged, and reconciled the concerns or objections to the general acceptance of the group.

Note: Although not every member fully agrees in context and principle, all members support the overall position of the group and agree not to object to the proposed recommendation document.

No consensus means that the disagreement among the group members cannot be reconciled to the general acceptance of the group. The group cannot reach a position that all members will support.

CONSENSUS PROCESS

When consensus cannot be reached

Because each member has the right and responsibility to have his or her objections considered, when consensus cannot be reached, dissenting members present written objections to the group in a format that can be understood clearly by all members.

In addition, there may be additional participants at the meeting who do not have decisionmaking privileges as official working group members. These “observers” may offer positions differing from the working group’s general consensus. In that case, the working group should report consensus with a note describing the other views.

Request for a facilitator

It may be advantageous to bring in a group facilitator to ensure all avenues of the problem have been explored and investigated. If the group wishes to use a facilitator to help reach consensus, the working group chair requests a facilitator from the Office of Rulemaking.

Objections

If a dissenting member presents a written objection, the group documents its position relative to the objection with the reason why the group chose and retains its position. This documentation of objections and positions offers additional opportunity for meaningful communication among all group members in the hopes of attaining consensus. With this exercise, disagreements can be resolved through compromise. If consensus still cannot be reached, the group has the documentation required to take the disagreement to ARAC for resolution. Upon ARAC’s resolution, the group can proceed with the task because all members’ concerns have been addressed. ARAC’s decision automatically provides consensus to the working group.

If major opposition to the group’s position still exists...	
The person opposing—	The working group—
<ul style="list-style-type: none"> • Documents his or her position. • Summarizes his or her understanding of the group’s position. • States why he or she believes the opposing position better addresses the issue. 	<ul style="list-style-type: none"> • Documents its position. • Summarizes its understanding of the opposition’s position. • States why the group believes its position better addresses the issue and why the opposing position should not be accepted. • Submits the documentation to ARAC as part of the working group’s recommendation document. • Includes the minority positions in any subsequent preamble to a draft recommended proposed rule with the reasons they were not adopted in the rule. (This is only for a recommendation document that is in the form of a proposed rule.)